

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

BRIAN WATSON, DANIEL)
SAMARGHITAN, ANNMARIE GREENE)
f/k/a ANNMARIE MOHAMMED, and JOSE)
ESPINAL, individually and on behalf of all)
others similarly situated,)
Plaintiffs,)
vs.)
MANHATTAN LUXURY AUTOMOBILES,)
INC. d/b/a LEXUS OF MANHATTAN,)
Defendant.)

Case No.: 20-cv-04572 (LGS)(SLC)

**STIPULATION TO ATTORNEYS' FEES
AND COSTS PURSUANT TO JUDGE
CAVE'S OCTOBER 19, 2021 ORDER**

Plaintiffs Brian Watson, Daniel Samarghitan, Annmarie Greene f/k/a Annmarie Mohammed, Jose Espinal and Lymell Jackson (collectively, “Plaintiffs”) and Defendant Manhattan Luxury Automobiles Inc. d/b/a Lexus of Manhattan (“Defendant”), by and through their respective undersigned counsel, hereby stipulate as follows:

WHEREAS, on September 2, 2021, Plaintiffs served upon Defendant the “Supplemental and Rebuttal” expert report of Anya Verkhovskaya (“S&R Report”);

WHEREAS, on September 10, 2021, Defendant sought leave to file a motion to strike the S&R Report as untimely and improper, which Plaintiffs opposed on September 17, 2021. Plaintiff's opposition to the motion to strike included an argument that the S&R Report was intended to correct a coding error identified in Ms. Verkovskaya's prior reports. Defendant objected to all grounds set forth in Plaintiff's opposition to the motion to strike;

WHEREAS, on October 12, 2021, the Court conducted a hearing on the Motion to Strike S&R Report and entered an Order ruling that the S&R was “an improper rebuttal or supplemental report, the remedy for which is to allow Defendant to re-depose Mr. Verkhovskaya . . . and to

serve responsive reports from Defendant's two experts, with the reasonable associated costs to be paid by Plaintiffs[,]" quantified by the Court [ECF No. 124]; ;

WHEREAS, on October 18, 2021, the Parties filed a joint letter to the Court providing, *inter alia*, Defendant's estimated fees and expenses in responding and completing the limited continuation of expert discovery, and Plaintiffs' opposition to the estimation as excessive [ECF No. 125];

WHEREAS, on October 19, 2021, the Court, observing the Parties' disagreement on the costs to be awarded to Defendant, ordered Defendant to "apply to the Court for an award of the costs associated with Ms. Verkhovskaya's continued deposition and the preparation of the Response Reports" [ECF No. 126];

WHEREAS, on December 29, 2021, Defendant filed its Motion for Costs pursuant to the October 19, 2021 Order, seeking reimbursement totaling \$33,648.53 incurred in association with the deposition and reports in response to the S&R Report [ECF No. 129];

WHEREAS, the Parties have reached an agreement over the amount of fees and expenses due to Defendant by Plaintiffs, effectively resolving the Motion for Costs without further judicial intervention;

WHEREAS, Plaintiffs have agreed to pay, and Defendant has agreed to accept, the sum of \$25,000 in order to fully reimburse Defendant for the costs associated with the deposition and reports in response to the S&R Report;

WHEREAS, this Stipulation does not negate the right of any party to seek attorneys' fees and costs on any future ground other than the Motion for Costs resolved herein;

NOW, THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE to an Order by the Court granting Defendant's Motion for Costs, but limiting the requested relief to a sum of \$25,000 to be paid within thirty (30) days of said Order.

IT IS SO STIPULATED this 12th day of January, 2022.

ZEMEL LAW LLC

/s/ Daniel Zemel

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AND NOW, this 13 day of January, 2022, it is hereby ORDERED that the foregoing Stipulation is APPROVED.

The Clerk of Court is respectfully directed to close ECF No. 129.

SO ORDERED

Sarah L. Cave

SARAH L. CAVE
United States Magistrate Judge